

CHAPTER V

PRIVACY LAW REQUIREMENTS

Federal and State privacy laws apply to the SS and SSI data that program administrators receive from HUD. All program administrator personnel who will have access to SS and SSI data that HUD discloses, must be advised of:

- the confidential nature of the information received,
- the required safeguards over the information, and
- the criminal and civil sanctions for noncompliance.

Confidential information that program administrators receive from HUD generally is not to be used or re-disclosed without the consent of the individual (or someone who may consent on his or her behalf), for any purposes other than for the verification of eligibility or the amount of rental assistance benefits. Exceptions to prohibitions against disclosure may exist under State laws.

Computer matching information concerning tenants only can be used to verify an applicant's or tenant's eligibility and level of assistance. Further, no adverse action can be taken against a tenant until the computer matching information has been verified and the tenant has been granted an opportunity to contest any adverse findings through the established grievance, hearing or other legal procedures.

A. Federal Law

The Federal Privacy Act of 1974, as amended, generally does not apply to program administrators. However, one section, 552(e)(3) of the Act does apply. This section requires that any form used by program administrators to request information from an individual contains:

- the authority for soliciting the information and whether the disclosure of information is mandatory or voluntary,
- the purpose(s) for which the information is intended to be used,
- the routine uses of the information,
- the effects of not providing all or any part of the requested information.

Program administrators can satisfy these requirements by using Form HUD-9886, Authorization for the Release of Information/Privacy Act Notice for the Office of Public and Indian Housing's programs and Form HUD-9887, Notice and Consent for the Release of Information and Form HUD-9887A, Applicant's and Tenant's Consent to the Release of Information for the Office of Housing's program.

HUD, the program administrator, or an employee of HUD or the Program administrator may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the forms HUD-9886, HUD-9887 or HUD-9887A. Use of the information collected based on the forms HUD-9886, HUD-9887 and HUD-9887A is restricted to the purposes cited on the forms. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a fine of not more than \$5,000.

B. State Laws

Program administrators may be subject to state privacy laws. Staff of program administrators must become familiar with and comply with those laws.